



# *Georgia Vendor Manual*

## **Department of Administrative Services State Purchasing Division**

200 Piedmont Avenue  
Suite 1308, West Tower  
Atlanta, Georgia 30334  
[statepurchasing.doas.georgia.gov](http://statepurchasing.doas.georgia.gov)

A handwritten signature in cursive script, reading "Dana R. Russell".

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Dana R. Russell,  
Commissioner

# Georgia Vendor Manual

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## FOREWORD

The Georgia Vendor Manual has been developed by the Department of Administrative Services (DOAS), State Purchasing Division (SPD), central purchasing authority of the state of Georgia, to assist vendors who wish to engage in business with the State. All interested vendors are encouraged to become acquainted with this manual as it contains important information on how to do business with the State.

Vendors may market goods and services directly to state agencies by contacting the Agency Purchasing Officers to determine which of the many agencies may potentially be in need of the goods and services that these companies provide. Although vendors may market goods and services directly to state agencies, it is important to remember that most purchases will be made by competitive solicitation.

The DOAS website contains detailed information on the State's procurement process. The website address is: [statepurchasing.doas.georgia.gov](http://statepurchasing.doas.georgia.gov).

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# Document Revisions Reflected Throughout Manual

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## Revision: July 2004

“State Purchasing Division Director” replaces “Director of State Purchasing” and “State Procurement Administrator.”

## Revision: August 2004

The term “bid opening” used throughout the manual has been changed. “Bid opening” referred to the final date and time for the receipt of bids and new bids were no longer acceptable. Changes to the manual replacing “bid opening” are “public opening and reading of bids,” “public bid closing” and “bid closing.”

## Revision: May 2005

The website address has been updated to reflect the new [statepurchasing.doas.georgia.gov](http://statepurchasing.doas.georgia.gov) portal address. DOAS Vendor Relations has been substituted for the Governor’s Small Business Center (GSBC).

## Revision: December 2005

“State Purchasing Office” changed to “State Purchasing Division.”

“State Purchasing Division Director” changed to “State Purchasing Division Assistant Commissioner.”

# Document Revisions - FY2005

## Chapter 3: Revision: July 2004

<b>Section</b>	<b>Revision</b>
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Section 3.8 Revised due to change of mailing instructions in the Protest Procedure.

## Chapter 3: Revision: October 2004

<b>Section</b>	<b>Revision</b>
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Section 3.7 Public viewing and inspection regarding contract awards has changed from five (5) days to five (5) business days.

Section 3.8 2. Filing of Protest Request for Formal Review

Formal review has changed from within three (3) days of the date of the State Purchasing Division Director's decision to within three (3) business days.

## Chapter 5: Revision: October 2004

<b>Section</b>	<b>Revision</b>
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Section 5.4 Return of Solicitation Document

Changed within five (5) days after the bid closing date to three (3) business days after the bid closing date.

Section 5.22 - Late Bids/Proposals

Deleted exceptions for late Bids, late withdrawals and late modifications acceptance.

## Chapter 8: Revision: October 2004

<b>Section</b>	<b>Revision</b>
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Section 8.2 Invoice/Billing Requirements

Changed no later than five (5) working days after delivery is made to five (5) business days.

## Chapter 3: Revision: January 2005

<b>Section</b>	<b>Revision</b>
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Section 3.2	E-Quote Bidding
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New electronic solicitation method for purchases under \$10,000.00.

# Document Revisions - FY2006

## Chapter 1: Revision: December 2005

Section	Revision
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Section 1.1	Purpose of the Vendor Manual
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Changed: ...State Purchasing Office, Attn: Acquisition Support Manager  
to: ...State Purchasing Division, Attn: Acquisition Manager

Section 1.4	Authority of the Department of Administrative Services, State Purchasing Division
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1.	<u>Purchases by State Agencies, Departments, and Institutions</u>
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Changed: All State agencies, departments, and institutions... to: All state offices, agencies, departments, boards, bureaus, commissions, institutions, and other entities of the State...

Section 1.6	Small and Minority Businesses
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Changed: ...DOAS' Vendor Relations (VR) works with state agencies, authorities, commissions, boards and institutions...to: ...DOAS' Vendor Relations (VR) works with state offices, agencies, departments, boards, bureaus, commissions, institutions, and other entities of the State...

Section 1.8	Visits by Salespersons or Other Vendor Representatives
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Changed: To regulate operations, such visits are normally limited to Tuesday through Thursday between the hours of 9:00am and 3:00pm. to: To regulate operations, such visits are normally limited to thirty (30) minutes on the first and third Wednesday of each month between the hours of 8:30am and 11:00am by appointment only. To schedule an appointment, call 404-657-6000.

## Chapter 2: Revision: December 2005

Section	Revision
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Section 2.2	Vendor Maintained System
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Changed: Vendors are responsible for updating and maintaining key company, contact, and product information in the system. to: Vendors are responsible for updating and maintaining company contact and product information in the system.

## Chapter 3: Revision: December 2005

Section	Revision
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Section 3.1	Methods of Procurement
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1. The Request for Quote (RFQ)

Changed: Awards made pursuant to an RFQ are made to the lowest responsible bidder meeting all specifications and whose bid is responsive to the RFQ. to: Awards made pursuant to a RFQ are made to the lowest, responsive and responsible bidder meeting all specifications.

2. Request for Proposal (RFP)

Changed: ...separate 1) technical proposals and 2) cost proposals...to: ...separate technical proposals and cost proposals.

Changed: The technical proposal is evaluated and receives a score. The cost proposal is evaluated and receives a score. The score for the technical proposal and the score for the cost proposal are added together. to: The technical proposal is evaluated and receives a score and then the cost proposal is evaluated and receives a score. The two scores are added together.

3. Request for Information (RFI)

Changed: A Request for Information (RFI) is a quasi-formal method for soliciting information from vendors who have knowledge or information about the product or service for your project. to: A Request for Information (RFI) is a quasi-formal method for soliciting information from vendors who have knowledge or information about an industry, product, or service.

## Section 3.2 Competitive Bidding/Proposals

### 1. E-Quote Bidding

Changed: After bids are evaluated a purchase order will be issued to the lowest responsible bidder meeting all specifications. to: After the bids are evaluated, a Purchase Order will be issued to the lowest, responsive and responsible bidder meeting all specifications.

### 2. Informal (Written) Bidding

Changed: After bids are evaluated a Notice of Award and/or a purchase order will be issued to the lowest responsible bidder meeting all specifications. to: After the bids are evaluated, a Notice of Award and/or a Purchase Order is issued to the lowest, responsive and responsible bidder meeting all specifications.

### 3. Formal (Sealed) Bidding

Changed: After the bids are evaluated, a Notice of Award or a Purchase Order issued to the lowest cost responsible bidder meeting all specifications... to: After the bids are evaluated, a Notice of Award and/or a Purchase Order is issued to the lowest, responsive and responsible bidder meeting all specifications and...

### 4. Reverse Auctions

Changed: The Commissioner for the Department... to: The Commissioner of the Department...

Changed: The reverse auction process is performed...to: Once bidders are pre-qualified, the reverse auction process is performed...

## Section 3.3 Open Market Contracts

Changed: ...and upon award to the lowest responsible bidder a Notice of Award or Purchase Order...to: ...and upon award to the lowest, responsive and responsible bidder a Notice of Award and/or Purchase Order...



## Chapter 5: Revision: December 2005

Section	Revision
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Section 5.3	Communication with the State in Connection with any Solicitation
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Changed: ...is posted by the State on the Procurement Registry... to:  
...is posted by the State on the Georgia Procurement Registry...

Section 5.4	Return of Solicitation Document
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Changed: ...in a separate envelope or package; signed, sealed (optional for informal bids), and identified as follows: to: ...in a separate envelope or package, completed in ink or typewritten, signed in ink, sealed (optional for informal bids), and identified as follows:

Section 5.14	Taxes
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Changed: ...(including LUST tax) to: ...(including Leaking Underground Storage Tanks [LUST] tax)

Section 5.28	Indemnification
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This section has been deleted in its entirety.

## Chapter 7: Revision: December 2005

Section	Revision
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Section 7.9	Delivery Time
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Changed: ...measures may be necessary in order to insure...to: ...  
measures may be necessary in order to ensure...

Section 7.14	Cancellation of Purchase Orders or Contracts
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Changed: No cancellation of an agency or statewide contract may be made unless in writing and signed by the State Purchasing Office. No cancellation of a purchase order may be made unless...to: Cancellation of an agency or statewide contract may not be made unless in writing and signed by the State Purchasing Division. Cancellation of a Purchase Order may not be made unless...

Section 7.18 Assignment and Delegation

Changed: No State contract or any performance required by it may be assigned or delegated,... to: A state contract or any performance required by the contract may not be assigned or delegated, ...

Section 7.21 Suspension or Debarment of Vendor – Authority of Hearing Officer

Changed : ...or fix the issues... to: ...or correct the issues...

Changed: Fix time limits... to: Set time limits...

## Chapter 9: Revision: December 2005

<b>Section</b>	<b>Revision</b>
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Section 9.2	Unlawful Actions in General
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Changed: ...by or through any Department, Agency, Board, or Bureau of the State for individual... to: ...by or through any office, agency, department, board, bureau, commission, institution, or other entity of the State for individual...

Section 9.4	Other Improper Purchases or Sales
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Changed: ... individual Departments, Institutions, and Agencies... to: ... individual offices, agencies, departments, boards, bureaus, commissions, institutions, or other entities of the State...

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## **CHAPTER 1 - GENERAL INFORMATION**

### **SECTION 1.1 - Purpose of the Vendor Manual**

The purpose of the Georgia Vendor Manual (hereafter “Manual”) is to acquaint prospective vendors with the State's purchasing system and to provide notice of the regulations, policies and procedures for doing business with the State. It is important to note that all provisions of this Manual will be incorporated by reference into any contract awarded. However, if there is a conflict between any provision of any individual contract and a provision of this Manual, the contract provision shall govern. If specific questions arise that are not answered in this Manual, vendors may address such questions in writing to:

Department of Administrative Services  
State Purchasing Division  
Attn: Acquisition Manager  
200 Piedmont Avenue, S. E., Suite 1308  
Atlanta, Georgia 30334-9010  
Phone: 404-657-6000  
Fax: 404-657-8444  
E-mail: [doasspo@doas.ga.gov](mailto:doasspo@doas.ga.gov)

### **SECTION 1.2 - Vendor Manual Revisions**

Vendors should periodically visit the State Purchasing Website at [statepurchasing.doas.georgia.gov](http://statepurchasing.doas.georgia.gov) to review the Vendor Manual for any updated information. Select the link for Resources and then Vendor Tools.

### **SECTION 1.3 - Purchasing Laws**

Laws concerning the Department of Administrative Services procurement process in general may be found in the Official Code of Georgia Annotated (O.C.G.A.) Title 50, Chapter 5, Article 3. The regulations set forth in this Manual are established pursuant to the Department of Administrative Services' authority under O.C.G.A. 50-5-54.

## **SECTION 1.4 - Authority of the Department of Administrative Services, State Purchasing Division**

### **1. Purchases by State Agencies, Departments, and Institutions**

The Department of Administrative Services through the State Purchasing Division is the unit of State government charged with the responsibility for the establishment of contracts, leases, purchase orders or other agreements for the procurement of supplies, materials, equipment, services, and some construction for other agencies of the State, and for overseeing statewide contracts. All state offices, agencies, departments, boards, bureaus, commissions, institutions, and other entities of the State are required to purchase through the Department of Administrative Services unless the total dollar amount of the procurement is within the agencies' delegated purchasing authority. Delegated Purchasing Authority is discussed in detail in Article IV of this Manual. Agencies that are specifically exempt by statute or regulation are not required to purchase through the Department of Administrative Services.

### **2. Purchases by Local Political Subdivisions**

Local political subdivisions, including counties, municipalities, and school boards, are authorized by State law to purchase their supplies, materials, and equipment through the Department of Administrative Services if they so desire. Purchases pursuant to this authorization may take the form of one-time open market purchases, special contracts, or statewide contracts specifically open to use by local political subdivisions. All products offered by bidders/offerors pursuant to statewide contracts will be offered to local political subdivisions as well as state agencies.

## **SECTION 1.5 - Exemptions from State Purchasing Requirements**

State statutes authorize the Department of Transportation, the various public authorities, the Board of Regents, and the Department of Labor through the Unemployment Trust Fund, to contract for construction projects directly. Also exempt from the Department of Administrative Services' rules and regulations are purchases by the legislative and judicial branches of State Government; purchases of technical instruments and supplies and technical books and other printed matter on technical subjects; also manuscripts, maps, books, pamphlets, and periodicals for the use of the State library or any other library in the State supported by State funds; also services; Department of Education purchase of school textbooks; purchases of livestock for slaughter and perishable articles such as fresh vegetables, fresh meat, fish and oysters, butter, eggs, poultry, and



milk; purchases for agricultural experiment stations covered by the Smith-Lever Act; Hatch Act Purchases; procurement of professional or personal employment services; and emergency supplies of drugs, chemicals and sundries, dental supplies and equipment.

#### 1. Personal Employment Services

These are services rendered by a person who works full time or part time for and under the control of the State and receives compensation as a salary in direct payment from an agency of State Government.

#### 2. Professional Services

These services include those professions identified in O.C.G.A. 14-7-2 which are: certified public accountancy, architecture, chiropractic, dentistry, professional engineering, podiatry, veterinary medicine, registered professional nursing, harbor piloting, land surveying, law, psychology, medicine and surgery, optometry, and osteopathy.

### **SECTION 1.6 - Small and Minority Businesses**

It is the policy of the state of Georgia that small and minority businesses have a fair and equal opportunity to participate in the State purchasing process. DOAS' Vendor Relations (VR) works with state offices, agencies, departments, boards, bureaus, commissions, institutions, and other entities of the State to provide the small and minority business communities with access to information and bid opportunities. Vendor Relations also provides technical assistance and training to help these businesses understand how to do business with the State. Vendor Relations conducts monthly "New Vendor Orientation" sessions that provide general information on how to become a registered vendor with the State, marketing strategies and other useful information. Vendor Relations also offers vendors a listing of Small and Minority Business Coordinators to inform vendors of procurement opportunities with specific agencies. Additional information about Vendor Relations can be found at the State Purchasing website at [statepurchasing.doas.georgia.gov](http://statepurchasing.doas.georgia.gov). Select Vendor Services from the Quick Links category on the home page. Then Select Vendor Relations.

Georgia State law authorizes certain tax credits for payments to minority subcontractors. (See the Official Code of Georgia Annotated (O.C.G.A) Section 48-7-38) Vendors should consult with their tax advisors to find out how to take advantage of these tax credits.

### **SECTION 1.7 - Inspection of Records**

The records of the State Purchasing Division are open and accessible to the public in accordance with the provisions of the Georgia "Open Records Act." Requests for inspection of records, must be in writing, must be reasonable, must contain sufficient information to facilitate retrieval, and must not interfere with the orderly operation of the State Purchasing Division.

Bidders/offerors are cautioned that any documentation submitted with or in support of a bid or proposal will become subject to public inspection under the Georgia Open Records Act. Labeling such information "Confidential," "Proprietary," or in any other manner may not protect this material from public inspection. A charge will be assessed to any vendor requesting copies of records.

### **SECTION 1.8 - Visits by Salespersons or Other Vendor Representatives**

The State Purchasing Division encourages visits by salespersons or other vendor representatives to members of its staff for the purpose of imparting specialized information concerning their products. To regulate operations, such visits are normally limited to thirty (30) minutes on the first and third Wednesday of each month between the hours of 8:30am and 11:00am by appointment only. To schedule an appointment, call 404/657-6000. Visitors are requested to make appointments in advance.

## **CHAPTER 2 - VENDOR REGISTRATION**

### **SECTION 2.1 - Application and Registration**

DOAS has a web-based Vendor Registration System which enables vendors to register their firms with the state of Georgia through the DOAS website. Vendors must register in this system in order to do business with the State. The registration system is “vendor maintained.” At the time of registration, vendors must select the products and services provided by their firm using NIGP Codes. It is highly recommended that vendors carefully select the NIGP commodity codes that most accurately reflect the goods and services their company provides. Also, the system has an option allowing vendors to receive automatic electronic notification of bid opportunities with the state of Georgia as well as with other governmental entities within the State through the Georgia Procurement Registry.

### **SECTION 2.2 - Vendor Maintained System**

Vendors are responsible for updating and maintaining company contact and product information in the system. All inquiries about the Vendor Registration System should be addressed to [vendoradm@doas.ga.gov](mailto:vendoradm@doas.ga.gov).

# **CHAPTER 3 - PROCUREMENT AND AWARD METHODS**

## **SECTION 3.1- Methods of Procurement**

### **1. The Request for Quote (RFQ)**

The RFQ is a method of procurement used by state agencies to solicit bids for the supply of goods and/or services. Awards made pursuant to a RFQ are made to the lowest, responsive and responsible bidder meeting all specifications.

### **2. Request for Proposal (RFP)**

A RFP is a competitive method of procurement whereby offerors are asked to submit proposals for the supply of goods and/or services in a format which allows for the consideration of factors in addition to the price in the evaluation and award process. This method of solicitation is used when it is determined by the Department of Administrative Services that the use of competitive sealed bidding is not practicable or is not advantageous to the State. The RFP solicits sealed price proposals from prospective vendors and seeks to obtain the “best value” for the State.

The RFP method does not use the cost of the project as the single determining factor, rather, uses a combination of lowest cost plus best proposed solution to determine the award. RFPs are used when the project does not lend itself to the creation of a clear and accurate Statement of Work and the objective of the solicitation is to determine a vendor who can offer the best possible solution at the most reasonable cost.

The RFP describes in general terms the problems and needs of the State. However, unlike the informal or formal bidding process in which the State prescribes both the specifications and solution to its own needs and vendors replicate the State's specifications and solution in the bids that they submit, the RFP process contemplates that vendors will propose their own comprehensive and innovative solutions to the State's needs described in the RFP. The State will evaluate offerors' proposals in accordance with evaluation criteria described in the RFP.

Like bids submitted in competitive sealed bidding, proposals submitted in response to RFPs are submitted in sealed packages. However, whereas bids are generally submitted as part of a single bid package, RFPs require that within the complete proposal package there be separate technical proposals and cost proposals. In its technical proposal, the offeror must provide a detailed and comprehensive description of the offeror's proposed solution to the State's needs. In its cost proposal, the offeror must describe the total cost of the proposed solution described in the technical proposal. The technical proposal is evaluated and receives a score and then the cost proposal is evaluated and receives a score. The two scores are added together.

The offeror that receives the highest total score may enter into contract negotiations with the State. If the State and the offeror that receives the highest total score cannot come to a final agreement as to terms and conditions within the time required in the RFP, the State may disqualify that offeror from further consideration for award and may enter into contract negotiations with the offeror that received the next highest score. This process may be continued until the State comes to a final agreement with a responsive and responsible offeror.

The offeror that ultimately wins a contract may not be the lowest cost offeror because the higher quality of the winning offeror's technical proposal may offset an increased cost or because no agreement could be reached as to contract terms and conditions. A Notice of Award will be issued to the responsible offeror whose proposal provides the best value to the State and with whom the State has reached agreement on all contract terms and conditions. The contents of proposals submitted in response to a RFP are not made public until after an award has been made.

### 3. Request for Information (RFI)

A Request for Information (RFI) is a quasi-formal method for soliciting information from vendors who have knowledge or information about an industry, product or service. The RFI method is not intended to result in a contract award but is designed to allow for the collection of industry information that may be used to determine if a RFQ or RFP solicitation method is appropriate.

### 4. Request for Qualified Contractors (RFQC)

A RFQC is used in cases where the State is attempting to find vendors with the qualifications to produce the product or service desired. The required

qualifications are known and each vendor is judged on its ability to meet or surpass the required qualifications. This form of solicitation may, but does not always, culminate in a contract award.

### **SECTION 3.2 - Competitive Bidding/Proposals**

All acquisitions or purchases made by the State Purchasing Division or by any other state agency subject to the Purchasing Act (Official Code of Georgia Annotated) are based on competitive bidding whenever possible. Acquisitions or purchases involving expenditures of less than \$5,000 may be made without competitive bidding. When practicable, more than one quotation should be obtained even where the expenditure is less than \$5,000. Acquisitions or purchases involving expenditures of \$5,000 or more, but less than \$100,000 will be made by competitive written bids/proposals. Acquisitions or purchases involving expenditures of \$100,000 or more will be made by solicitation of competitive sealed bids or proposals.

#### **1. E-Quote Bidding**

Purchases involving expenditures under \$10,000 may be made by solicitation of electronic E-Quote bids to vendors registered on the State of Georgia Vendor Registration System. There is no formal public opening and reading of bids required. After the bids are evaluated, a Purchase Order will be issued to the lowest, responsive and responsible bidder meeting all specifications.

#### **2. Informal (Written) Bidding**

Purchases involving expenditures of \$5,000 or more, but less than \$100,000 may be made by solicitation of informal written bids/proposals whenever practicable, or by fax bids/proposals. Written solicitations designate a closing date for the submission of the bids. There is no formal public opening and reading of bids required. After the bids are evaluated, a Notice of Award and/or a Purchase Order is issued to the lowest, responsive and responsible bidder meeting all specifications.

#### **3. Formal (Sealed) Bidding**

Solicitation of formal sealed bids is used for expenditures exceeding \$100,000. Sealed bids designate a specific due date and time and are publicly opened and prices read at the time and place designated in the RFQ. After the bids are

evaluated, a Notice of Award and/or a Purchase Order is issued to the lowest, responsive and responsible bidder meeting all specifications and with whom the State has reached agreement on all contract terms and conditions. It should be noted that the contract award will not be to the bidder with the lowest cost if the State determines that the low cost bidder cannot clearly perform the contract requirements.

#### 4. Reverse Auctions

The Commissioner of the Department of Administrative Services has the authority to use reverse auctions as a form of competitive bidding and as an alternative to sealed bidding. Once bidders are pre-qualified, the reverse auction process is performed in real-time, via the internet, on a specifically scheduled day and time. The real-time reverse auction allows the vendors to see the lowest bid but not the identities of the bidders during the bidding process. Once the reverse auction is closed, the State evaluates the bids and awards the contract to the lowest, responsive and responsible vendor.

### **SECTION 3.3 - Open Market Contracts**

The Department of Administrative Services frequently purchases supplies, materials, and equipment on the open market (one time buy) without establishing a term contract (contract established for a specified term, usually one year). The bidder should not expect additional orders. The requirements for competitive solicitations apply to these purchases and upon award to the lowest, responsive and responsible bidder a Notice of Award and/or Purchase Order will be issued to the contractor.

### **SECTION 3.4 - Statewide Contracts**

Statewide contracts are generally established for one (1) year by the Department of Administrative Services with options to renew and are for use by all state agencies and local political subdivisions. The solicitation document will contain, whenever possible, non-binding estimates of total usage by the user agencies. The successful bidder/offeror will be issued a Notice of Award. The shipment of supplies, materials, or equipment is authorized by the issuance of purchase orders by user agencies as releases against the contract. All state agencies are required to purchase from statewide contracts. Local governments can procure at their option.

## **SECTION 3.5 - Agency Contracts**

Agency contracts are term contracts (generally with a term of one year) with options to renew established by the Department of Administrative Services for use by an individual state agency. If the bidder/offeror will agree to open the contract for use by agencies other than the issuing agency, the vendor must offer those other agencies the same price, terms and conditions as the issuing agency. An informal (regular) bid process may be used to establish an agency contract if total purchases are estimated to be less than \$100,000.

The State establishes five distinct types of agency contracts:

- Open - A contract which is used when exact quantities needed are not known at the time the contract is established.
- Fixed Quantity - A contract that is used when exact quantities needed are known at the time the contract is established.
- Service Maintenance - A contract that is used when an agency requires the labor, time, or effort of a contractor. This agreement can be used for the upkeep of property that neither adds to its permanent value nor prolongs its intended life appreciably, but instead keeps it in an efficient operating condition.
- Rental and Lease Purchase Agreement - A contract that is used when an agency requires the use of equipment owned by a vendor for a specified time in return for compensation. When used in State contracts, the terms "Lease" or "Rental" refers to contracts by which the one who owns tangible personal property grants to the State the right to possess, use, and enjoy such property for a specified period of time in exchange for periodic payments of rent. Vendors should note that the State recognizes no distinction between a lease agreement and a rental agreement.
- Installment Purchase/Sales Financing - A contract that is used when an agency desires to purchase an item by making payments over time. The term installment purchase, when used in state contracts, refers to a schedule of payments arranged in connection with a purchase transaction requiring periodic payments of a specific sum for each of a stated number of payments.

## **SECTION 3.6 - Multi-Year Agreements**

The state of Georgia operates on a fiscal year of July 1 through June 30. The State may only enter into contractual obligations one (1) fiscal year at a time and therefore, multi-year obligations are not permissible. However, multi-year agreements are permissible under the following conditions:



- Multi-Year Leases and Purchases - The Department of Administrative Services is authorized by law to execute multi-year leases and installment purchase agreements for the acquisition of supplies, materials, equipment, or services.
- Annual Termination of Obligations Under Multi-Year Agreements - Georgia law requires that multi-year agreements terminate absolutely and without further obligation on the part of the State at the end of each fiscal year (July 1 - June 30). The contract can be renewed only by action on the part of the State. Twelve month agreements which begin at any time other than the first day of the State's fiscal year are multi-year agreements and must be renewed at the beginning of the next fiscal year.
- Renewal of Multi-Year Agreements - Since the multi-year agreement terminates at the close of each fiscal year, it must be renewed each year by the state agency if it is to remain in effect. Renewal of the agreement is accomplished by the issuance of a Purchase Order and/or Notice of a ward Amendment.
- Total Obligation - A multi-year agreement must explicitly state the total obligation which may be incurred by the State during the current fiscal year and must state the total obligation that may be incurred in each succeeding fiscal year for which the agreement may be in effect.
- Establishment of Leases, Rentals, or Installment/Purchase Agreements - The statutory rules concerning competitive solicitation apply to leases, rentals, lease/purchases, and installment sales agreements. Statewide and agency contracts may be established which provide such agreements for individual agencies. In the event that such contracts are established, user agencies will issue purchase orders in the same manner as for any other purchase pursuant to agency or statewide contracts. Each purchase order will establish an Individual Standard Agency Agreement at the rates set forth in the agency or statewide contract. In all other cases, such acquisitions must be processed through the State Purchasing Division.
- Optional Purchase of Leased Items - When an executed Standard Agency Agreement includes equity accruals and an option to purchase the subject equipment, the equipment may be purchased by the issuance of a purchase order to execute the option, provided that the purchase is a cash transaction.
- Funding - The funding provision required for use in State contracts is intended to preclude any liability on the part of the State for payment in the event that funding for the contract ceases to exist or otherwise becomes insufficient. It is not intended to allow a user agency, by the re-allocation of funds to the acquisition of other equipment, to terminate an existing agreement covering similar equipment due to lack of funding.

Moreover, while the determination of lack of funding must be left to the sole discretion of the Chief Operating Officer of the user agency, that discretion may not be arbitrarily or capriciously exercised. Given the manner in which the State appropriates funds and the way user agencies budget them, a lack of funding situation should be readily apparent and easily confirmed by the agency's records.

- Title - The Standard Agency Agreement provides for the following:
  - Leases and Rentals - The title to the property remains with the bidder/offeror. The user agency acquires no right, title, or interest therein, except as may be provided for by equity accruals or options to purchase.
  - Installment Purchases - Title to the property vests in the user agency upon acceptance, subject to the terms and conditions of the Standard Agency Agreement and the user agency's obligations thereunder.

### **SECTION 3.7 - Contract Award**

All contract awards will be made by the issuance of a Notice of Award and/or a Purchase Order. A Purchase Order and/or Notice of Award constitutes a contract according to its terms. The State has the authority to review any solicitation or award at any time and for any reason and all contracts shall be contingent upon and subject to defeasance by the protest procedure set out in this Manual. Information regarding contract awards is available for public view and inspection for a period of five (5) business days following the issuance of the Notice of Award/Purchase Order.

### **SECTION 3.8 - Protest Procedure**

This section describes the mandatory administrative procedure whereby vendors may challenge the solicitation process and whereby bidders/offerors may challenge contract awards.

#### **1. Definitions**

- Protestor means (a) any actual bidder/offeror who is aggrieved in connection with a contract award and who files a protest in accordance with this section no later than ten (10) days following the contract award or (b) any vendor who is aggrieved in connection with a RFQ/RFP and files a protest in accordance with

this section regarding the RFQ/RFP no later than two (2) business days prior to bid closing or proposal due date.

- Unless otherwise stated, "day(s)" means calendar day(s).

## 2. Filing of Protest

- Subject of Protest and Time for Filing a Protest - If a vendor or bidder/offeror may be aggrieved by any aspect of a solicitation, the vendor or bidder/offeror must protest in accordance with this section.
  - Bidders/offerors may protest the contract award in connection with the RFQ/RFP on which the bidder/offeror has submitted a bid/proposal. Any such protest by a bidder/offeror must be filed no later than ten (10) days following the date of the Notice of Award or Purchase Order. Vendors who do not submit a timely bid/proposal may not protest the contract award.
  - Protests pertaining to events or facts arising during the solicitation process, including but not limited to specifications, must be filed no later than two (2) business days prior to the public bid closing or proposal due date.
  - Issues not raised in the initial protest may at the discretion of the State be deemed waived with prejudice by the Protestor.
  - Protests sent by fax or email will not be accepted.
- Filing a Protest - A protest is filed when a written Protest signed by a company officer authorized to sign contracts on behalf of the vendor is received by the State Purchasing Division Assistant Commissioner. Failure to file a protest by the time required may at the discretion of the State be deemed a waiver with prejudice by the vendor or bidder/offeror of any grounds it may have for a protest.
- Form of Protest - To expedite handling of Protests, the envelope should be labeled "PROTEST." The written Protest shall include as a minimum the following:
  - The name and address of the Protestor;
  - Appropriate identification of the solicitation, and, if a contract has been awarded, its number;

- A statement of reasons for the Protest; and
  - Supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time; in which case the expected availability date shall be indicated.
- Stay of Procurement During Protest
    - When a Protest pertaining to events or facts arising during the solicitation process, such as protests concerning specifications and evaluation criteria, has been timely filed at least two (2) business days prior to the public bid closing or proposal deadline date, no award of a contract shall be made until a final decision has been issued, unless the State Purchasing Division Assistant Commissioner makes a written determination, after consulting with the user agency, that the award of the contract without delay is necessary to protect the interests of the State.
    - When a Protest has been timely filed within ten (10) calendar days following the issuance of a contract award, the State Purchasing Division shall consult with the user agency to determine if performance of the contract without delay is necessary to protect the interests of the State. If it is determined that it is necessary to proceed with contract performance without delay, the bidder/offeror with this contingent contract may proceed with performance and receive payment for work performed in strict accordance with the terms of the contract; however, such bidder/offeror shall not be entitled to reimbursement for any capital outlay costs, or other up front expenditures incurred in performing the contract. The provisions of the paragraph are not applicable to a Protest pertaining to events or facts arising during the solicitation process
  - Decision by the State Purchasing Division Assistant Commissioner
    - Time for Decisions - A decision on a Protest shall be made by the State Purchasing Division Assistant Commissioner as expeditiously as possible after receiving all relevant requested information. If a Protest is sustained, the available remedies include:

- a. If a Protest is sustained prior to an award, modification of the solicitation document, including but not limited to specifications, terms and conditions and evaluation criteria; and extension of the opening date, if appropriate.
  - b. If a Protest is sustained after an award is made, suspension or cancellation of the award, re-evaluation and re-award or re-solicitation with appropriate changes to the new solicitation document.
- Costs - In no event shall a Protestor be entitled to recover any costs incurred in connection with the solicitation, including bid/proposal preparation costs or attorneys' fees.
- Request for Formal Review
  - Subject of Request for Formal Review and Time for Filing  
If a Protestor or user agency disagrees with the decision of the State Purchasing Division Assistant Commissioner, the Protestor or user agency must request a formal review of the State Purchasing Division Assistant Commissioner's decision to the Commissioner of the Department of Administrative Services within three (3) business days of the date of the State Purchasing Division Assistant Commissioner's decision. The request for formal review shall contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors in the State Purchasing Division Assistant Commissioner's decision. The Commissioner of the Department of Administrative Services may, in his or her sole discretion, allow the Protestor to make an oral presentation, and may solicit whatever other information he or she deems appropriate. However, issues not raised in the initial protest may at the discretion of the Commissioner of the Department of Administrative Services be deemed waived with prejudice by the Protestor.
  - Final Decision - The decision of the Commissioner of the Department of Administrative Services shall be final.

## **CHAPTER 4 - DELEGATION OF AUTHORITY TO STATE AGENCIES**

The State Purchasing Division delegates certain types of authority to the state agencies to facilitate their purchasing needs. These include, releases against statewide contracts and agency contracts, delegated purchasing authority, and emergency purchase authority. Agencies issue purchase orders directly to the successful bidder/offeror to effectuate these purchases.

### **SECTION 4.1 - Mandatory Source Procurement**

Statutes and the regulations of the Department of Administrative Services require state agencies to purchase certain certified products and services from other agencies of the State whenever such services or products are required and are certified to be competitive as to quality and price. These include, but are not limited to, the products of the Georgia Industries for the Blind, Georgia Enterprises for Products and Services, Georgia Correctional Industries and DOAS Supply Services. The procurement of such products is not subject to the competitive solicitation requirements of the Official Code of Georgia Annotated.

### **SECTION 4.2 - Releases Against State and Agency Contracts**

When an agency needs to acquire supplies, materials, equipment, or services covered by either an agency or statewide contract, the agency issues a Purchase Order to the successful bidder/offeror referencing the contract and using contract price information provided by the State Purchasing Division. Receipt of the Purchase Order authorizes the successful bidder/offeror to ship the items requested subject to the terms and conditions of the statewide or agency contract referenced.

State agencies authorized under previously existing individual agency contracts to obtain supplies, materials, equipment, or services, that are provided under any newly awarded statewide contract shall continue to buy such supplies, materials, equipment, or services under any such agency contract until such contract shall expire and, until such expiration, shall not be subject to terms and conditions of the statewide contract.

### **SECTION 4.3– Delegated Purchasing Authority**

The authority to purchase is delegated to state agencies by the DOAS State Purchasing Division. Delegated purchasing authority varies from agency to agency but in no event will such authority exceed \$100,000. Vendors should contact the State Purchasing Division for specific information regarding each individual agency's delegated purchasing authority. The rules for competitive solicitation apply to purchases of such goods and services. This authority should only be exercised if no statewide contracts, agency contracts or mandatory sources exist.

### **SECTION 4.4 - Emergency Purchases**

This authority applies when an emergency exists at the agency level. The State Purchasing Division has granted the authority to the agencies to purchase urgently needed items arising from unforeseen causes.

## **CHAPTER 5 - THE SOLICITATION PROCESS**

### **SECTION 5.1 - Selection of Vendors; Advertisement**

It is the policy of the State to give every vendor an equal opportunity to submit bids/offers on State procurement requirements. The method of solicitation depends on the estimated value of the solicitation, the particular item(s) to be purchased and what methods are most advantageous to the State. As discussed in Article III, Section 2, contracts exceeding \$100,000 shall be awarded by competitive sealed bidding. Such bids will be solicited by advertisement in the Georgia Procurement Registry (hereinafter “GPR”). DOAS procurement requires agencies to post competitive solicitations to the GPR where the solicitation is \$10,000 or higher. Sealed bids may also be solicited by advertisement in a newspaper of state-wide circulation for at least fifteen (15) calendar days prior to the date set for opening of the bids or awarding of the contract. Solicitations in excess of \$250,000 and solicitations for construction projects will be advertised for thirty (30) calendar days. The Website address for the GPR is [www.procurement.state.ga.us/procurement\\_index.jsp](http://www.procurement.state.ga.us/procurement_index.jsp).

### **SECTION 5.2 - Solicitation Documents**

RFQs, RFQCs, and RFPs are used by the State to solicit offers to sell goods or services and should not be construed as an order by the State to make any purchase. A RFI is used to obtain information from the vendor community that may or may not be used to develop a solicitation document at a later date. Vendors should review instructions and conditions of the solicitation document and include all information and signatures as required. The bid or proposal must be returned to the State Purchasing Division or specified state agency before the time and date indicated for the bid closing. The use of a company bid form containing terms and conditions which are in conflict with those in the solicitation document constitutes a counteroffer and may not be acceptable.

Occasionally, the State may utilize the assistance of a consultant in the development of a solicitation document. These consultants are obtained either through a standing consulting contract or through a competitive bid process. The consultants who participate in this process will be required to prepare and submit a nondisclosure statement regarding this procurement. Any consultant who assists in the development of a solicitation document will be prohibited from submitting a bid/proposal in response to that solicitation or from otherwise performing work on any contract directly resulting from that particular solicitation document, unless the State expressly waives this



restriction in writing. Vendors who respond to RFIs may respond to solicitations resulting from the RFI.

### **SECTION 5.3 - Communication with the State in Connection with any Solicitation**

- Inquiries - All questions concerning a solicitation should be directed to the purchasing agent or issuing officer whose name and phone number appears in the solicitation document. Vendors should refer to the RFQ or RFP number and the opening date when making an inquiry. All inquiries must be in writing and delivered or faxed to the purchasing agent or issuing officer. Questions other than written will not be accepted. Responses other than written will not be binding upon the State.
- Restriction on Communication with State Staff - From the issue date of the solicitation document and until a contractor is selected and the selection is made public, vendors are not allowed to communicate for any reason with any State staff regarding this procurement except through the Issuing Officer named in the solicitation document or during the bidder's/offeror's conference, or as provided for by existing contracts. For violation of this provision, the State may reject any bid/proposal of the offending bidder/offeror or initiate suspension/debarment proceedings with respect to the offending vendor or bidder/offeror. All questions concerning the solicitation document must be submitted in writing (email may be used) to the Issuing Officer. Questions sent by electronic mail (email) are the preferred method. However the State will accept Fax copies. No questions other than written will be accepted. No response other than written will be binding upon the State.
- Pre-Bid/Pre-Proposal Conference (a/k/a Bidder's/Offeror's Conference) - Pre-bid/pre-proposal conferences are generally held after issuance of the solicitation document to provide vendors an opportunity to raise questions or clear up any misunderstanding regarding the solicitation documents. Transcripts of such conferences may be taken and can be provided to all vendors who request a copy. Information concerning pre-bid/pre-proposal conferences is posted by the State on the Georgia Procurement Registry.

## **SECTION 5.4 - Return of Solicitation Document**

Each solicitation document should be returned in a separate envelope or package, completed in ink or typewritten, signed in ink, sealed (optional for informal bids), and identified as follows:

Issuing Officer  
Department of Administrative Services  
State Purchasing Division  
200 Piedmont Avenue, S.E.  
Suite 1308, West  
Atlanta, Ga. 30334-9010

From: Name of Vendor/Company  
Vendor Point of Contact  
Email Address/Telephone No.  
Street or Box Number  
City, State, Zip Code

Bid/Proposal Closing Date:  Time:   
Solicitation Number:

It is imperative that the bidder/offeror place the solicitation Closing Date, Time, and the Solicitation Number on the outside of the envelope since this is the means by which it is to be identified as an offer.

Informal (written) bids received via faxed transmission before the specified “Bid Closing Date/Time” may be accepted with prior approval of the Issuing Officer, provided the original RFQ document is received within three (3) business days after the bid closing date.

## **SECTION 5.5 - Amendment or Cancellation of Solicitation Documents**

The State may revise a solicitation document by issuing an addendum prior to its opening. Acknowledgment of receipt of an addendum should be returned prior to the time set for receipt of bids/proposals, or accompany them. Failure to bid or propose in accordance with an addendum may be cause for rejection. In unusual circumstances, the State may postpone an opening in order to notify vendors to give them sufficient time to respond to the addendum.

The State may withdraw or cancel a solicitation document at any time. A notice of cancellation will be issued. Bids or proposals may be returned upon request if unopened.

### **SECTION 5.6 - Combining Solicitation Documents**

A vendor should not combine responses to separate solicitation documents. A vendor must submit separate bids or proposals for each solicitation in order to receive consideration for award.

### **SECTION 5.7 - Terms, Conditions and Instructions**

Unless otherwise specified in a solicitation document, all such solicitations are deemed to include all the terms and conditions outlined in this Manual, as well as the terms, conditions, and instructions included in the solicitation document itself. In the event of conflict between the language in this Manual and the solicitation document, the latter shall govern. These terms and conditions should be read carefully prior to the submission of any bid/proposal. Unless a specific exception is noted by the bidder/offeror and accepted by the State by inclusion in the Purchase Order/Notice of Award, all provisions of the terms and conditions of the solicitation document will become a part of any contract awarded. Any exception to provisions in the Georgia Vendor Manual must be made in the offer.

### **SECTION 5.8 - Exceptions to Solicitation Documents**

All exceptions taken by a bidder/offeror to any portion of any solicitation document must be clearly noted in a separate section of the bid or proposal entitled "Exceptions." Failure to note exceptions in the bid or proposal may be cause for their rejection. Exceptions which give the bidder/offeror a competitive advantage or which cause the bidder/offeror to fail to meet a mandatory requirement may not be accepted.

### **SECTION 5.9 - Vendor Address**

All correspondence concerning the award of State business, including Notices of Award and/or Purchase Orders will be sent to the contractor's address on file. Contractors wishing to have orders or payments mailed to a different address other than the one on file should so indicate.

## **SECTION 5.10 – Registration and Disclosure of Lobbyists Employed or Retained by Vendors to State Agencies**

### **1. Definitions**

- ‘Lobbyist’ shall have the meaning given in O.C.G.A. § 21-5-70(6), and shall also include:

any person who, for compensation, either individually or as an employee of another person, undertakes to influence a public employee or state agency in the selection of a vendor to supply any goods or services to any state agency but does not include a person solely on the basis that such person participates in preparing a written bid, written proposal, bid protest, or other document relating to a potential involvement with or sale to a state agency; or

any natural person who makes a total expenditure of more than \$250 in a calendar year, not including the person's own travel, food, lodging expenses, or informational material, to promote or oppose the awarding of a contract to a particular vendor or vendors by any state agency; where the total value of any single contract, including anticipated renewals, exceeds \$50,000 in value or \$100,000 in the aggregate for all contracts the lobbyist promotes or opposes in a calendar year;

- ‘Public employee’ shall have the meaning given in O.C.G.A. § 45-1-6(a)(4), but shall additionally include all State elected officials;
- ‘State Agency’ means each State department, agency, board, bureau, office, commission, authority, council, or corporation, by whatever name denominated;
- ‘Vendor’ shall have the meaning given in O.C.G.A. § 45-1-6(a)(5).

### **2. Lobbyist Registration and Vendor Certification**

- All vendors or prospective vendors who employ or retain one or more lobbyists shall cause such lobbyists to register with the State Ethics Commission and to file the disclosures required by Article 4 of Chapter 5 of Title 21 of the O.C.G.A. Such registration must be made no later than fifteen (15) calendar days after the lobbyist’s initial contact with the state agency or the date that bids or proposals are due, whichever is earlier.

- Such lobbyist disclosures shall include the name of any vendor or vendors by which the lobbyist is employed or retained, shall identify the contract or contracts for which the lobbyist is lobbying, and shall include a good faith estimate of the total amount of all income to the lobbyist from the vendor (including any payments to the lobbyist by any other person for lobbying activities on behalf of the vendor), other than income for matters that are unrelated to lobbying. Lobbyist disclosures required pursuant to this regulation shall be updated with the same frequency as lobbyist disclosures required in Article 4 of Chapter 5 of Title 21 of the O.C.G.A.
- All vendors or prospective vendors shall certify, as part of any response to a request for proposals or bids or other procurement method that any lobbyist whom the vendor or prospective vendor employs or retains has registered with the State Ethics Commission and complied with the requirements of this regulation.
- The registrations and disclosures required pursuant to this regulation shall be considered "information voluntarily supplied" to the State Ethics Commission by such vendors under O.C.G.A. § 21-5-6(b)(3), so that the State Ethics Commission may perform its duty to accept and file such information.
- The registrations and disclosures required pursuant to this regulation shall be in addition to any reports required under O.C.G.A. § 45-1-6. Compliance with this regulation shall not excuse noncompliance with that Code section, and compliance with that Code section shall not excuse noncompliance with this regulation, notwithstanding that in some cases the same information may be required to be disclosed under both.
- In accordance with O.C.G.A. §§ 45-12-130, -131 and other applicable law, DOAS, along with the Office of Planning and Budget, shall decline to approve any contract with any vendor that has failed to comply with this regulation.
- If any contract is awarded but it is subsequently discovered that a vendor has made an inaccurate certification pursuant to this regulation or that one or more of the vendor's lobbyists has failed to fully comply with the requirements of this regulation, such contract shall be voidable.

## **SECTION 5.11 - Certificate of Non-collusion - Signature on Bids/Proposals**

RFQs, RFPs, RFQCs, must contain a certificate of non-collusion which must be signed by an authorized representative of the bidder/offeror. Such person shall include his or her title, and if requested, shall supply verification of authority to bind the company in contract. This certificate is required by law and failure to sign and submit it with the bid/proposal may result in its rejection.

The certificate of non-collusion states:

"I certify that this bid (proposal) is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid (proposal) for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. I understand that collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of this bid (proposal), and certify that I am authorized to sign this bid (proposal) for the bidder (offeror). (O.C.G.A. 50-5-67). I further certify that the provisions of the Official Code of Georgia Annotated 45-10-20 et. seq. have not and will not be violated in any respect."

## **SECTION 5.12 - Pricing and Discounts**

Solicitation documents may request the quotation of the list price less all trade or other special discounts offered. Discount from list quotations may be requested for the supply of certain types of commodities. Instructions concerning this method of pricing will be included in the solicitation document. The addition by the bidder/offeror of price escalator clauses, minimum order requirements, or other additional pricing terms not included in the terms and conditions of the solicitation document may be cause for rejection. Pricing must be based upon payment within thirty (30) days unless otherwise specified in a solicitation document. In all cases, if there is a discrepancy between the unit price and the extended price, the unit price shall govern, unless otherwise specified in a solicitation document.

## **SECTION 5.13 - Late Charges**

Bids/proposals containing provisions for late charges, whether designated as interest charges or otherwise, will not be considered for an award. Vendors are instructed to remove, strike through, or otherwise withdraw any such provision contained in a vendor's printed forms. The bidder/offeror must initial such changes prior to submitting a bid or proposal to the state of Georgia.

## **SECTION 5.14 - Taxes**

The State is prohibited from paying or reimbursing a vendor for any taxes which may be lawfully imposed on the vendor or on the property being provided. The State will, however, pay any taxes which may be lawfully imposed on it.

State Taxes from which state agencies are exempt:

- Ad Valorem Property Tax
- Sales and Use Tax
- Local Option Sales Tax
- MARTA Tax
- Special Purpose Sales Tax
- Hotel/Motel Excise Tax (with use of exemption form)

State Taxes from which state agencies **are not** exempt:

- Motor Fuel Tax (except aviation fuel is not taxed; aviation gasoline is not exempt)
- 2nd Motor Fuel Tax (except aviation fuel is exempt; aviation gasoline is not exempt)
- GUST (Georgia Underground Storage Tank Act)
- State Scrap Tire Fee (New tires only)
- Hotel/Motel Sales Tax (except when bill paid directly by state agency)

Federal Excise Taxes from which state agencies are exempt:

- Communications (telephone & telegraph)
- Heavy Trucks, Trailers, and Tractors
- Tires
- Gasoline (including Leaking Underground Storage Tanks [LUST] tax)
- Gasohol
- Diesel Fuel

- Special Motor Fuels
- Firearms
- Ammunition
- Sport Fishing Equipment
- Non Commercial Aviation Fuels
- Gasoline
- Fuels other than gasoline including jet fuel (Airports & airways trust fund tax)

Federal Excise Taxes from which state agencies **are not** exempt:

- Transportation of Persons by Air
- Transportation of Property by Air
- Gas Guzzler (except for law enforcement agencies)
- Certain ozone depleting chemicals tax
- Tax on coal
- Tax on vaccines
- Superfund Taxes on petroleum products

### **SECTION 5.15 – Time of Performance**

The number of calendar days required for delivery after receipt of a purchase order should be shown in the space provided on the solicitation document. These documents may contain specific delivery time requirements which must be met. Should a bidder/offeror not be able to offer delivery as required, the bidder/offeror should indicate an exception to the requirement and indicate the delivery time offered. Failure to offer the specified delivery time, however, may cause a bid/proposal to be rejected.

### **SECTION 5.16 - Specifications**

Detailed specifications may not always accompany a solicitation document. In some instances, reference will be made to certain standard specifications. Such a reference incorporates any standard specifications in the solicitation document and any response must be in accordance with those specifications.

In other cases, references may be made to one or more brand names. Such reference is not restrictive unless otherwise specified and is used for descriptive purposes only. Unless the bidder/offeror clearly indicates in the bid or proposal that the bidder/offeror is offering equivalent products, such bids or proposals will be considered as offering the brand name products referenced in the solicitation document. Bids or proposals on equivalent products of like quality



and performance will be considered provided that the product is clearly equivalent. The bidder/offeror should submit catalog excerpts, specifications, or other materials suitable for use in the evaluation of the product offered. Any such materials shall become official records of the State. The State Purchasing Division will, in its sole discretion, determine whether a substitute offer is equivalent to the product or products specified and may require the bidder/offeror to supply additional descriptive material, samples, or other proof if needed.

Occasionally, the solicitation document will include a Qualified Products List (QPL). This is a list of products that, because of the length of time required for test and evaluation, are tested in advance to determine compliance with specification requirements. In such instances, only those on the list may be bid or offered. The criteria for qualification are made available to allow potential suppliers an opportunity to qualify for future requirements. The Department will be the sole judge of when qualification is required.

#### **SECTION 5.17 - Samples**

Samples of items, when required by the State, must be furnished free of charge. Samples furnished will be returned upon request, at the vendor's expense, unless consumed in examination or testing. Such requests should be made at the time samples are submitted. Each sample submitted must be clearly labeled, with the vendor's name, manufacturer's brand name and number, and the solicitation number. No samples will be returned until after a contract award has been made. Samples submitted by the successful bidder/offeror may, in some instances, be held for comparison with the merchandise furnished, and will not be returned until all of the merchandise ordered pursuant to the contract has been delivered and inspected. Failure on the part of the bidder/offeror to submit requested samples within time specified may be cause for rejection of the bid/proposal.

#### **SECTION 5.18 - Sending or Transmitting Bids/Proposals**

Vendors are encouraged to carefully weigh and verify postage on all bids/proposals before mailing. The State Purchasing Division is not responsible for late delivery or non-delivery and does not accept mail with postage due. The State Purchasing Division is also not responsible for late delivery or non-delivery of faxed bids/proposals. Vendors are responsible in all respects for timely delivery of bids/proposals.

### **SECTION 5.19 - Corrections**

No erasure may be made on bids or proposals. Prior to submission or opening, errors may be stricken and corrections entered provided that any such strike-over or addition is initialed by the person signing the bid/proposal or their agent. Negligence on the part of the preparer confers no right to correct such bids/proposals after their opening or due date.

### **SECTION 5.20 - Revision or Withdrawal of a Bid/Proposal**

A bid/proposal may be revised or withdrawn by the bidder/offeror prior to the opening date and hour. After the opening, the State Purchasing Division may, in its sole discretion, permit withdrawal when the best interest of the State would be served. Generally, withdrawal will only be allowed in cases where there has been an honest mistake not resulting from negligence and the mistake is clearly ascertainable.

### **SECTION 5.21 - Alternate Bids/Proposals**

Alternate bids/proposals may be submitted by bidders/offerors and such alternate bids/proposals may be considered in lieu of or in addition to an offer for the goods or services requested by the State. When alternate bids/proposals reveal that more economical supplies, materials, equipment, or services than those requested exist, the State Purchasing Division reserves the right to make an award based on the alternate bid/proposal as long as it is responsive and meets the requirements and specifications in the solicitation document. If the alternate bid/proposal suggests that changes to the specifications would result in a more desirable solicitation, cancellation and re-solicitation may occur with modified specifications.

### **SECTION 5.22 - Late Bids/Proposals**

Bids/proposals must be received in the State Purchasing Division on or before the date and hour designated for their opening. Those received after the date and hour for opening will be rejected.

### **SECTION 5.23 - Bid, Performance, and Payment Bonds**

Bid bonds are generally required for construction (public works) contracts. They are required only occasionally by the State Purchasing Division for non-construction contracts. The requirement will be stated clearly in the solicitation document in all cases, and the bid bond must accompany the bid/proposal. Any

bid or proposal submitted without the required bid bond will not be considered for award. All bid bonds must be in a sum equal to five percent (5%) of the total amount of the bid/proposal, unless otherwise specified.

Payment and performance bonds are required by law for all construction (public works) contracts in excess of \$100,000. Performance bonds may also be required for construction contracts below \$100,000 and for any non-construction contracts at the discretion of the State. All payment and performance bonds must be in an amount at least equal to one hundred percent (100%) of the total contract price unless otherwise specified. Other than bonds required by law, any requirement for a bond must be identified in the solicitation document.

Surety bonds issued by a surety authorized to do business in the state of Georgia are acceptable to the State. Unless otherwise specified in the solicitation document, other types of bonds including cash bonds, checks, and certified checks are not acceptable. Vendors should, at their own expense, make arrangements for the issuance of any bond called for in the solicitation document or otherwise required by law.

#### **SECTION 5.24 - Open Specifications and Procedures**

The State Purchasing Division endeavors to use open specifications and procedures that conform to accepted public procurement practices whenever possible. Vendors are requested to inform the State Purchasing Division whenever specifications or procedures appear not to be fair and open. Such information should be supplied as early as possible in the procurement process to allow time for necessary corrections prior to the scheduled opening date.

#### **SECTION 5.25 - Manufacturer's Certificate**

The State Purchasing Division reserves the right to request that the vendor furnish proof that it is the manufacturer or one of the manufacturer's authorized dealers or distributors of the product proposed and is capable of providing the original manufacturer's warranty services on any items delivered. When a manufacturer's certificate or evidence of authorized distributorship is required, it shall be dated not more than thirty (30) days prior to the date of opening of the bid/proposal.

## **SECTION 5.26 - Source Inspection**

By submitting a bid or proposal to the State, the bidder/offeror agrees to permit the State the right of inspection at the bidder's/offeror's plant or warehouse. Upon request, the bidder/offeror shall provide all reasonable facilities and assistance for the safety and convenience of the State's appointed representative in the performance of such inspection.

## **SECTION 5.27 – Insurance**

Contractors who conduct business with the state of Georgia may be required to procure and maintain insurance during the period of the contract which protects the contractor and the State from any claims for bodily injury, property damage, or personal injury which arise out of operations under the contract. If the State requires insurance, that requirement will be stated in the solicitation. Insurance coverage is at the contractor's own expense. The insurance must list the State as certificate holder. Vendors should review the insurance coverage requirements contained in the sample contract attached to the solicitation document prior to submitting a bid to the State. Insurance requirements may differ depending on the type of procurement. Contractors are required to submit proof of insurance coverage in the form of a signed insurance certification document to the Contracting Officer before the issuance of a final Notice of Award.

## **CHAPTER 6 - EVALUATION OF BIDS/PROPOSALS AND AWARD**

### **SECTION 6.1 - Rejection of Bids/Proposals**

The state of Georgia reserves the right to reject any and all bids/proposals submitted in response to any solicitation document, to reject any portion thereof, or to waive any minor irregularity or administrative requirement.

### **SECTION 6.2 - Acceptance Period**

The State Purchasing Division generally requires a minimum of thirty (30) days to evaluate bids/proposals for award. Those which limit the acceptance period to less than thirty (30) days may therefore be rejected. Should the State Purchasing Division determine that a time period other than thirty (30) days is appropriate, the solicitation document will so indicate.

### **SECTION 6.3 - Contract Award**

For all contracts established through a RFQ, the award will be made to the lowest responsible and responsive bidder to the RFQ. This is the bidder who submits the lowest price, whose bid meets the specifications, who agrees to contract terms and conditions with the State, and who is clearly capable of performing the resulting contract. Therefore, the awarded bidder may not always be the bidder who has submitted the lowest monetary bid.

For all contracts established through a RFP, the award will be made to the offeror submitting the proposal which is most advantageous to the State and provides the best overall value to the State. This is the offeror whose proposal receives the highest overall score, who is able to reach mutually agreeable contract terms and conditions with the State and who is clearly capable of performing the resulting contract.

Examples of a non-responsible bidder/offeror include, but are not limited to a bidder/offeror with history of non-performance or performance problems on other contracts (public or private), a record of financial difficulty, business instability, criminal sanctions, civil sanctions, and/or tax delinquency. Responsibility or non-responsibility will be determined by the State on a case by case basis taking into consideration the unique circumstances of each individual procurement.

## **SECTION 6.4 - Reciprocal Preference Law**

The law requires that bidders/offerors resident in the state of Georgia be granted the same preference over bidders/offerors resident in another State in the same manner, on the same basis, and to the same extent that preference is granted in awarding bids or proposals for the same goods or services by such other State to bidders/offerors resident therein over bidders/offerors resident in the state of Georgia. This reciprocal preference is used for evaluation purposes only. All state agencies are required to apply this reciprocal preference.

## **SECTION 6.5 - Split and Multiple Awards**

Where more than one (1) item is requested in a RFQ, the State Purchasing Division reserves the right to determine the lowest responsible bidder either on an overall basis, or on the basis of individual items or groups of items. Ordinarily, split awards will not be made unless the saving to the State exceeds five percent (5%) of the total contract price or \$500, whichever is greater.

In some circumstances, when it is deemed to be in the State's best interest, the State Purchasing Division may make multiple awards for the supply of different brands or models of the same commodity. Such awards allow the user agencies to select those products which best suit their needs. They are only made when it is not possible or practical to make a competitive low bid award to a single brand or model.

## **SECTION 6.6 - Resolving Tie Bids**

A tie bid exists when two or more bidders offer, at identical prices, products that meet all specifications, terms, and conditions. In such a situation State statutes provide three preferences which will be used to resolve tie bids whenever applicable: (1) preference to products manufactured or produced within the state of Georgia; (2) preference to products sold by local bidders/offerors within the State; and (3) preference to products manufactured or sold by small business. If these preferences are insufficient to resolve the tie, the following in order of priority may be considered:

- Past performance of the bidders
- Earliest delivery date
- Division of the order
- Closest proximity to delivery site
- Flip of the coin

## **SECTION 6.7 - Freight Charges**

All offers received will be F.O.B. destination. Bidders/offerors may, however, charge back freight and insurance. In such event, the bidder/offeror shall state the exact amount of freight or insurance charges or a "shall not exceed" amount.

## **SECTION 6.8 - Minimum Order Pricing**

Unless called for in the solicitation document, offers containing a minimum order/ship quantity or dollar value may be treated as non-responsive and may not be susceptible for award.

## **SECTION 6.9 - Prepayment**

Unless called for in the solicitation document, offers containing prepayment and/or progress payment requirements may be treated as non-responsive and may not be susceptible for award.

## **SECTION 6.10 - Clarification of Bids and Proposals**

When evaluating any bid or proposal, the State may seek clarification from any bidder/offeror regarding the contents of its bid or proposal.

If after evaluation and clarification of bids and proposals the State determines that bids/proposals are unreasonable or unacceptable, are non-competitive, or the low bid or highest scoring proposal exceeds available funds, and it is determined in writing by the State Purchasing Division that time or other circumstances will not permit the delay required to re-solicit competitive bids or proposals, a contract may be negotiated provided that each responsible bidder/offeror who submitted such a bid/proposal under the original solicitation is notified of the determination and is given a reasonable opportunity to negotiate. In cases where the bids/proposals received are noncompetitive or the low bid or highest scoring proposal exceeds available funds, the negotiated price shall be lower than the lowest rejected bid/proposal of any responsible bidder/offeror under the original solicitation.

## **SECTION 6.11 - Re-solicitation**

If at any time it is found that the integrity of the process has been compromised or that errors have occurred, the solicitation may be canceled. The procurement may be re-solicited if the State so desires.

## **SECTION 6.12 - Incorporation of Terms and Conditions**

The terms, conditions, and specifications of the solicitation document and the award document will be incorporated in any contract with the State or user agency. The contract also incorporates by reference the contents of this Manual, except as may be modified or deleted by specific language in the executed contract.

## **SECTION 6.13 - Price Increases/Decreases**

The State Purchasing Division normally requests quotations of firm prices for the contract term. Term Contracts, however, may in some cases contain a clause describing conditions under which a price increase will be allowed. In all cases, if there is a discrepancy between the unit price and the extended price figures, the unit price will govern.

After award, a request to increase prices pursuant to the contract must be in writing and addressed to the responsible purchasing agent. It must contain all of the information and documentation called for in the contract. The purchasing agent will respond to any such request within thirty (30) days. Price increases will not be granted unless the solicitation document or contract makes provision for them. In most cases, the State requires that any announced price decreases in a commodity also be passed along to the State. Bidders/offerors may take exception to the firm price provision in a solicitation document if they wish, but such an exception will not be granted unless no firm price bids/proposals are received. If an exception is granted, the State Purchasing Division will factor in one hundred percent (100%) of any percentage increase for the purpose of evaluation.

## **SECTION 6.14 - Contract Extension**

The State Purchasing Division Assistant Commissioner may in his or her discretion extend a contract for such period as may be necessary to afford the State a continuous supply of the items listed in a term contract. Extensions are authorized in the event that a contract shall terminate or be likely to terminate prior to the making of an award for a new contract.



## **SECTION 6.15 - Security Interest, Liens, Claims, and Encumbrance**

No vendor may acquire a security interest in supplies, materials, or equipment sold to the State or any agency. No vendor may sell to the State goods and services which are subject to any liens, claims, or encumbrances of any kind.

## **SECTION 6.16 - Advisory Services**

The state of Georgia recognizes the value of advisory or consultative services which vendors often provide to agencies. Services of this type will nonetheless be regarded as normal sales effort, and no preferential treatment will be given to vendors providing such services when contracts are awarded. Moreover, no compensation may be paid for any such services unless they were provided pursuant to an existing contract.

Equipment provided and installed by a vendor for the purpose of demonstration will not be given preferential recognition in contract awards, and the State will not be liable for any charges or costs incurred by vendors in making such equipment available, nor shall the State be under any obligation to purchase or pay in any manner when a vendor, upon the request of an agency, delivers the equipment or other products for test or trial.

## **SECTION 6.17 - Goods of Foreign Manufacture**

In order to be considered for award, goods of foreign manufacture must meet all specifications contained in the solicitation document, must be in stock in the continental United States, and must be available for immediate shipment at the time a bidder/offeror submits its bid/proposal

If foreign made machinery, mechanical, or electro-mechanical equipment is bid/offered, then this must be accompanied by evidence acceptable to the State Purchasing Division in its sole discretion that adequate service locations, service personnel, and repair parts are available from stocks in the continental United States.

## **SECTION 6.18 - Life Cycle Cost**

Life cycle cost analysis may be used in the evaluation of bids/proposals. "Life cycle cost" is defined as the amortized annual cost of a product, and may include capital costs, installation costs, operating costs, maintenance costs and disposal costs measured over the lifetime of the product. The use of life cycle cost analysis will be announced in the solicitation document.

## **CHAPTER 7 - CONTRACT PERFORMANCE**

### **SECTION 7.1 - Receipt of Purchase Order or Notice of Award - Authority to Ship**

Successful bidders/offerors will receive either a Notice of Award from the State Purchasing Division, or a Purchase Order from a user agency. The Purchase Order and/or Notice of Award will include the terms, conditions and specifications that the contractor must comply with, in fulfilling its obligations to the State as well as any contractor exceptions accepted by the State.

The receipt of a Purchase Order for a one-time open market purchase, a lease or installment purchase, or a fixed quantity contract, authorizes shipment in accordance with its terms. The receipt of a Notice of Award establishing a term contract, however, does not authorize any shipment. Shipment against term contracts is authorized by the receipt of a purchase order. The Purchase Order number or contract number must be shown on all bills of lading, packing slips, back orders, invoices, and other transactional documents. Some agencies may request the contractor to ship against a term contract prior to the issuance of a Purchase Order. Any shipments made pursuant to such a request and before the receipt of a Purchase Order are made at the contractor's sole risk.

### **SECTION 7.2 - New, Used, or Altered Products**

All supplies, materials, and equipment supplied to the State must be new and in first-class condition unless the solicitation document specifically allows bids/proposals of used, reconditioned, or remanufactured items. If newly manufactured products are specified, such products must be of recent origin and not previously used. Unless otherwise specified in the solicitation document, all supplies, materials and equipment supplied to the State must be commercially available at the time of bid.

No equipment of any type is acceptable if serial numbers or any other manufacturer's identifying labels or marks have been removed, obliterated, or changed in any way. A contractor delivering any such equipment to the State will be deemed to have breached its contract, and appropriate action will be taken by the user agency.

### **SECTION 7.3 - State Property**

All tools, dies, jigs, patterns, equipment, plates, cuts, negatives, artwork, or other items purchased, furnished, charged to or paid for by the State and produced in conjunction with or in order to fulfill any state contract, and any replacement thereof, shall become and remain the property of the State. The contractor shall hold such property for the benefit of the State, and upon the State's written request deliver the property to the State.

### **SECTION 7.4 - Packaging**

All items must be packaged in new packing containers. Packing that meets the requirements of freight shipping, that is acceptable to carriers, and that is in normal use, will generally be acceptable. A packing slip or invoice must accompany all shipments and must reference the Purchase Order number or contract number. All packages should be labeled properly showing brand name, size, or package number and amount.

### **SECTION 7.5 - Back Orders**

If it is necessary for a contractor to back order any item, and if the contract or purchase order allows for back orders, the contractor should notify the consignee and advise as to the expected shipment or delivery date. The necessity to back order may be deemed a breach of contract.

### **SECTION 7.6 - Payment Withheld**

Payment for any item delivered pursuant to a contract or order may be withheld by a user agency until all requirements of the contract or order have been complied with, in full.

### **SECTION 7.7 - Substitutions**

Substitution is the shipment of an item that does not conform strictly to the purchase order specifications, including any brand and/or model number specified. Any substitution must be approved in writing by the officer who issued the original contract or purchase order prior to delivery. Items which do not meet specifications will be returned to the contractor at its expense. The refusal of the State to accept a substitution does not relieve the contractor of its obligation to provide the item or items called for in the contract.

## **SECTION 7.8 - Loss or Damage in Transit/Freight**

For all Purchase Orders or contracts designated F.O.B. destination, delivery of goods to a common carrier does not constitute delivery to the State or any user agency, and the risk of loss will remain with the contractor until actual delivery to the user agency. Any claim for loss or damage incurred during the delivery shall be made by the contractor directly to the carrier. The user agency will note all damage incurred in transit on the freight bill and notify the contractor and the contractor shall make immediate replacement of the damaged merchandise. If damage is to a small quantity only and the user agency will not be inconvenienced because of the shortage, the contractor may, with the consent of the agency, deduct the amount of damage or loss from their invoice to the agency in lieu of replacement.

For accounting and budgeting reasons, the State is unable to prepay freight. Therefore, bids/proposals must be quoted F.O.B. destination unless otherwise specified. The contractor shall prepay the freight and insurance.

The contractor may charge back the freight and insurance if the exact amount or the "charge" or a "shall not exceed" amount is stated in the bid/proposal. In such instances, supporting documentation of any freight or insurance charges must be attached to the invoice.

## **SECTION 7.9 - Delivery Time**

The successful bidder/offeror should maintain or have available an inventory sufficient to make delivery within the time stated, or take whatever other measures may be necessary in order to ensure that delivery will be made in accordance with the contract. Failure to deliver in accordance with the contract could result in the contractor being declared in default.

## **SECTION 7.10 - Receipt by State Agency**

Quantities, units, and prices on all shipping documents must match those on the Purchase Order. If the contract requires grading certificates, USDA stamps, or other proof of quality, such proof must accompany the shipment.

## **SECTION 7.11 - Inspection**

Delivery does not constitute acceptance. All supplies, materials, and equipment delivered to any agency of the State shall be subject to inspection and testing. Items that do not meet specifications will be rejected. Failure to reject upon receipt, however, does not relieve the contractor of its liability. If tests subsequent to delivery reveal a failure to meet specifications, the contractor shall be deemed to have breached its contract.

## **SECTION 7.12 - Complaints**

In the event a user agency determines that the contractor's performance has not been in accordance with its contract, the Issuing Officer will complete and send to the contractor a written complaint stating the nature of the complaint and requesting an explanation. The contractor should respond promptly to all such complaints. Failure to satisfactorily respond will be considered in determining the contractor's eligibility for future contracts. The seriousness of the complaint is determined by the State Purchasing Division. Repeated complaints could result in suspension and/or debarment.

## **SECTION 7.13 - Default**

- Non-Exclusive Remedies - In the event of default by the contractor for failure to deliver, failure to meet specifications, or for any other reason, the state of Georgia may, in addition to any other remedies which it may have by law, in equity, or which may be provided for in its contract with the contractor, procure the subject items or services from other sources and hold the contractor responsible for any additional cost which is incurred as a result. Default on contracts may result in suspension and/or debarment.
- Consequential Damages - Unless otherwise stated in the solicitation documents, a contractor will not be liable to the State for consequential or remote damages incurred by the State which are indirectly caused by the default of the contractor.

## **SECTION 7.14 - Cancellation of Purchase Orders or Contracts**

Cancellation of an agency or statewide contract may not be made unless in writing and signed by the State Purchasing Division. Cancellation of a Purchase Order may not be made unless in writing and signed by the user agency. The State may in its sole discretion grant a contractor's request to cancel an order to release a contractor from its contract if the contractor is

prevented from performing its contractual obligations by an act of war, act of God, order of legal authority, or other unavoidable cause not attributed to the fault or negligence of the contractor. The burden of proof for such relief rests solely with the contractor. All requests for relief must be addressed to the State Purchasing Division with a copy sent to the ordering agency. The State Purchasing Division reserves the right to cancel all contracts with any contractor who fails to perform on any given contract or order.

#### **SECTION 7.15 - Contract Assignment**

Contracts are not assignable or delegable in whole or in part without the express written consent of the State Purchasing Division and the user agency.

#### **SECTION 7.16 - Contract Renewal**

Some contracts contain renewal clauses describing the conditions under which a contract resulting from a solicitation document may be renewed. The decision to renew any contract must be approved by both the user agency and the State Purchasing Division. In order to renew any contract, the user agency must certify in writing to the State Purchasing Division that the contractor has performed satisfactorily and met all of the requirements set forth in the contract. After receiving this certification from the user agency, the State Purchasing Division may then approve the renewal of the contract.

#### **SECTION 7.17 - Waiver**

The waiver by the State of the breach of any provision contained in any contract shall not be deemed to be a waiver of such provision on any subsequent breach of the same or any other provision contained in a contract. No such waiver or waivers shall serve to establish a course of performance between the parties contradictory to the contract terms.

#### **SECTION 7.18 - Assignment and Delegation**

A state contract or any performance required by the contract may not be assigned or delegated, in whole or in part, without the express prior written consent of the user agency and State Purchasing.

## **SECTION 7.19 - Warranties**

In submitting a bid/proposal to the State, the bidder/offeror warrants that any goods supplied to the State meet or exceed specifications set forth in the solicitation documents.

## **SECTION 7.20 - Additional Terms**

Neither the State nor any user agency shall be bound by any terms and conditions included in any vendor's packaging, invoice, catalog, brochure, technical data sheet, or other document which attempts to impose any condition at variance with or in addition to the terms and conditions contained in any contract or purchase order executed or issued by the State or by such user agency.

## **SECTION 7.21 - Suspension or Debarment of Vendor**

The procedures for suspension and debarment of vendors are as follows:

- Application - This regulation applies to all debarment or suspensions of persons, firms, or corporations from consideration for award of contracts imposed by the Department of Administrative Services, State Purchasing Division.
- Causes for Debarment or Suspension - The causes for debarment or suspension include the following:
  - Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract;
  - A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts;
  - Damage or destruction to State property.
- Suspension
  - Initiation - After consultation with State Purchasing Agent(s) or Agency Procurement Officer(s), the Office of Legal Services, and where practicable, the vendor who is to be suspended, and upon written determination by the State Purchasing Division Assistant Commissioner that probable cause exists for debarment as hereinafter set forth, a vendor shall be suspended. A notice of suspension including a copy of such determination shall be sent to the suspended vendor. Such notice shall state that:



- The suspension is for the period it takes to complete an investigation into possible debarment including any appeal of a debarment decision but not for a period in excess of one hundred-twenty (120) days.
  - Bids or proposals will not be solicited from the suspended person, and, if they are received, they will not be considered during the period of suspension; and
  - If a hearing has not been held, the suspended person may request a hearing in accordance with this regulation.
- Effect of Decision - A vendor is suspended upon issuance of the notice of suspension. The suspension shall remain in effect during any appeals. The suspension may be ended by the officer who issued the notice of suspension, by the Commissioner of Administrative Services, or by a court of law, but otherwise shall only be ended when the suspension has been in effect for one hundred-twenty (120) days or a debarment decision has taken effect.
- Initiation of Debarment Action - Written notice of the proposed debarment action shall be sent by certified mail, return receipt requested, to the vendor. This notice shall:
  - State that debarment is being considered;
  - Set forth the reasons for the action;
  - State that, if the vendor so requests, a hearing will be held, provided such request is received by the State Purchasing Division Assistant Commissioner within ten (10) days after the vendor receives notice of the proposed action;
  - State that the vendor may be represented by counsel.
- Request for Hearing - A vendor that has been notified of a proposed debarment action may request in writing that a hearing be held. Such request must be received by the State Purchasing Division Assistant Commissioner within ten (10) days of receipt of notice of the proposed action under Section D above. If no request is received within the ten (10) day period, a final determination may be made as set forth hereinafter.

- Authority of Hearing Officer - The hearing officer, in the conduct of the hearing, has the power, among others, to:
  - Hold informal conferences to settle, simplify, or correct the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding either by consent of the parties or upon such officer's own motions;
  - Require parties to state their positions with respect to the various issues in the proceedings;
  - Require parties to produce for examination those relevant witnesses and documents under their control;
  - Rule on motions and other procedural items or matters pending before such officer;
  - Regulate the course of the hearing and the conduct of the participants therein;
  - Receive, rule on, exclude, or limit evidence, and limit lines of questioning or testimony which are irrelevant, immaterial, or unduly repetitious;
  - Set time limits for submission of written documents and matters before such officer;
  - Impose appropriate sanctions against any party or person failing to obey an order under these procedures, which sanctions may include:
    - Refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence;
    - Excluding all testimony of unresponsive or evasive witnesses; and
    - Expelling any party or person from further participation in the hearing;
  - Take official notice of any material fact not appearing in the record if such fact is among the traditional matters of judicial notice.

- Hearing Procedures -
  - Hearings shall be as informal as may be reasonable and appropriate under the circumstances and in accordance with applicable due process requirements. The weight to be attached to evidence presented in any particular form will be within the discretion of the hearing officer. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if that witness were present. The hearing officer may require evidence in addition to that offered by the parties.
  - The hearing may be recorded but need not be transcribed except at the request and expense of the vendor. A record of those present, identification of any written evidence, copies of all written statements, and a summary of the hearing shall be sufficient record.
  - Opening statements may be made unless a party waives this right.
- Determination of Hearing Officer - Final Decision - The hearing officer shall prepare a written determination and shall send copies thereof to the Commissioner of the Department of Administrative Services and to the vendor. The vendor shall have ten (10) days in which to file comments upon the hearing officer's determination. The Commissioner of the Department of Administrative Services may thereafter, in his or her sole discretion, request oral argument. The Commissioner of the Department of Administrative Services shall issue a final decision. Both the hearing officer's determination and the final decision shall recite the evidence relied upon. When debarment is recommended or ordered, the length of debarment (not to exceed five years), the reasons for such action, and to what extent affiliates are effected shall be set forth. In addition, the final determination shall inform the debarred person of his or her rights to judicial review.
- Effect of Debarment Decision - A debarment decision shall take effect upon issuance and receipt by the vendor. After the debarment decision takes effect, the vendor shall remain debarred until the debarment period specified in the decision expires.

## **CHAPTER 8 - CHARGES AND COLLECTIONS**

### **SECTION 8.1 - Separate Agency Records**

Each state agency is solely responsible for the payment of all invoices for supplies, materials, equipment, and services ordered by it. The name and address of the ordering agency is shown on each purchase order or contract. Vendors should maintain separate accounts and records for each agency.

### **SECTION 8.2 - Invoice/Billing Requirements**

Invoices must be rendered in the number of copies required by the purchase order or contract and issued to the ordering agency no later than five (5) business days after delivery is made. Invoices for orders shipped to other agencies should not be sent to the State Purchasing Division. Invoices and statements should include the following information:

- Contractor name, address, and I.D. number;
- Purchase Order Number;
- Agency name, address, and zip code;
- Item description and line number;
- Quantity, unit, unit price, and extension for each item;
- The invoice number and invoice total;
- Discount, if applicable;
- Date of order and shipping date;
- Back order, if any, and shipping date.

### **SECTION 8.3 - Payment Requirements**

Agencies are precluded by law from paying any invoice without a corresponding purchase order and delivery receipt. Any shipment made prior to the receipt of a purchase order is made at the contractor's sole risk.

### **SECTION 8.4 - Assistance in Securing Payment**

Requests for assistance in obtaining payment for an order may be addressed to the Procurement Officer of the User agency to which the supplies, materials, equipment, or services were sold or rendered. In extreme cases, the State Purchasing Division, through the responsible purchasing agent, may make inquiries of the user agencies.

# **CHAPTER 9 - ETHICS AND UNLAWFUL ACTIONS**

## **SECTION 9.1 - Ethics in General**

The Department of Administrative Services subscribes to the State's Code of Ethics for Governmental Service. Among the provisions relevant to the relationship between Department personnel and vendors are the following: All persons in government should:

- Uphold the Constitution, laws and regulations of the United States and the state of Georgia and of all governments therein and should never be a party to their evasion.
- Never discriminate unfairly by dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for themselves or their families favors or benefits under circumstances which might be construed by responsible persons as influencing the performance of their governmental duties.
- Make no private promises of any kind binding upon the duties of office, since a government employee has no private work which can be binding on public duty.
- Engage in no business with the government either directly or indirectly which is inconsistent with the conscientious performance of their governmental duties.
- Never use any information divulged to them confidentially in the performance of governmental duties as a means for making private profit.
- Expose corruption whenever discovered.

The general thrust of the code is to protect governmental integrity. Employees of the Department of Administrative Services must discharge their duties impartially and in such a manner as to assure fair and competitive access to governmental procurement by responsible vendors. Moreover, these employees should conduct themselves in such a manner as to foster public confidence in the integrity of the Department and the public procurement process.

## **SECTION 9.2 - Unlawful Actions in General**

State statutes prohibit certain activities related to State procurement. Some of the statutes regulate the activities of State employees, while others concern vendors. The paragraphs that follow will enumerate those unlawful activities and the penalties for their commission:

- Financial Interest of Department Personnel in Contracts - Neither the Commissioner of the Department of Administrative Services, nor any employee of the Department shall be financially interested or have any personal beneficial interest either directly or indirectly in the purchase or contract for any materials, equipment, or supplies, nor in any such firm, corporation, partnership, or association furnishing any such supplies, materials, or equipment to the State Government or any of its Departments, Institutions, or Agencies. (O.C.G.A. 50-5-78).
- Acceptance of Benefits from Contracts - Except as provided for elsewhere in this section, it shall be unlawful for the Commissioner of the Department of Administrative Services or any employee of the Department to accept or receive, directly or indirectly, from any person, firm, or corporation to whom any contract may be awarded any money or anything of more than nominal value or any promise, obligation, or contract for future reward or compensation.

Nothing in this Code section shall preclude the Commissioner or any employee of the Department of Administrative Services from attending seminars, courses, lectures, briefings, or similar functions at any manufacturer's or vendor's facility or at any other place if any such seminar, course, lecture, briefing, or similar function is for the purpose of furnishing the Commissioner, or employee with knowledge and information relative to the manufacturer's or vendor's products or services and is one which the Commissioner determines would be of benefit to the Department and to the State.

In connection with any such seminar, course, lecture, briefing, or similar function, nothing shall preclude the Commissioner or employee from receiving meals from a manufacturer or vendor. Nothing in this section shall preclude the Commissioner or employee from receiving educational materials and business related items of not more than nominal value from a manufacturer or vendor.

Nothing contained in this Code section shall permit the Commissioner or employee to accept free travel from the manufacturer or vendor outside the state of Georgia or free lodging in or out of the state of Georgia. (O.C.G.A. 50-5-78).

- Purchases through the Department for Individual Ownership - It shall be unlawful for any employee or official of the State to purchase, directly or indirectly, through the Department of Administrative Services, or through any Agency, Department, Board, or Bureau of the State, any article, material, merchandise, ware, commodity, service or other thing of value for the personal or individual ownership of himself or other person or persons. (O.C.G.A. 50-5-80)
- Sale or Delivery of Merchandise by or through a State Agency, for Individual Ownership - It shall be unlawful for any person knowingly to sell or deliver any article, material, merchandise, ware, commodity, services, or other thing of value to any person, directly, or indirectly, by or through the Department of Administrative Services or by or through any office, agency, department, board, bureau, commission, institution, or other entity of the State for individual and personal ownership of such person or other person or persons except that property for the State which may be sold or otherwise disposed of in accordance with the laws governing the sale or other disposition of State property. (O.C.G.A. 50-5-80).
- Trading with State Employees - The Official Code of Georgia Annotated 45-10-20 et. seq. describes in great detail certain improper conduct. Vendors are expected to comply fully with these provisions.
- Collusion - Conspiracy in restraint of free and open competition in transactions with the State or collusion is prohibited by Georgia Law (Official Code of Georgia Annotated, 16-10-22). Vendors should note that State Law requires that a certificate must be signed before the bid/proposal is submitted, in order for it to receive consideration.
- Bribery - An individual who gives to any person acting for or on behalf of the State or any State Agency any benefit, reward, or consideration to which he is not entitled with the purpose of influencing them in the performance of any act related to the functions of his office or employment shall be guilty of bribery. An agent of the State may be guilty of bribery if he solicits or receives such benefit, reward or consideration. (O.C.G.A. 16-10-12).

### **SECTION 9.3 - Fraud in Delivery or Performance**

If any vendor attempts to willfully or fraudulently evade the specifications for the procurement of any items or willfully and fraudulently fails to deliver quantity or quality as specified through alteration or otherwise, the Department of Administrative Services may in its discretion, suspend or debar such vendor from any further transactions with the State and take such other action as may be proper to recover any loss or damage to the State.

### **SECTION 9.4 - Other Improper Purchases or Sales**

All contracts are solicited and awarded on the basis of good faith. After a term contract has been established, it is improper for any state agency to purchase like commodities from other sources except in emergency situations or under such other circumstances as may be provided for in the contract. All vendors are prohibited from deliberately attempting to sell to any state agency items that are listed on existing term contracts. Attempts to sell to individual offices, agencies, departments, boards, bureaus, commissions, institutions, or other entities of the State by price reductions or sales pressure may result in removal from the state of Georgia Vendor Registration System.